

REMARKS/ARGUMENTS

Inventorship

Malkit S. Deogon is not an inventor of any of the pending claims of the present application. He has therefore been removed in the preliminary amendment of January 18, 2000. A petition, \$130 fee (37 C.F.R. § 1.17(i)), and consent of assignee were all attached to that amendment. If this petition has not been acted upon, it is hereby requested that it now be considered and granted. If the petition fee is unnecessary, it is requested that the fee be refunded to account no. 16-2201.

Information disclosure statement

The information, patents and/or literature references listed on the attached form PTO-1449, copies of which are enclosed, are being submitted with the fee set forth in § 1.17(p). They were cited by another patent office more than three months ago.

The newly cited art was cited in a supplemental search report made by the European Patent Office. It is not believed to show or make obvious any of the pending claims. No translations have been obtained for the German language references, but English language abstracts are attached to them and appear to give a general idea, with the drawings, of the subject matter disclosed therein.

Response to Action

Claims 10-19, 22-27, 35-36, and 41-53 are presently pending in this application.

Claim rejections - 35 U.S.C. § 112

Claims 17, 18, 24, and 49 have been amended to remove the word "mesh" (retaining the word "fabric") as required.

It is believed that the rejection of claim 27 was in error. No basis for the rejection was given.

Claim 43 was rejected under 35 U.S.C. § 112, second paragraph for reciting "the coated fabric" rather than "the treated fabric" and for using the term "windows." It is believed that this rejection is meant to apply to claim 46, which contains these terms. The term "treated fabric" has been substituted, and the term "windows" has been changed to "openings." It is believed that these changes overcome the rejection.

Claim 48 has been amended to be dependent on claim 42, thereby giving antecedent basis for the term "resin."

Claim rejections - Double patenting

The rejection of the claims for non-statutory "obviousness-type" double patenting over U.S. Patent 6,001,437 is believed to be overcome by the accompanying disclaimer executed by applicants' attorney of record.

Claim rejections - 35 U.S.C. § 103

All the claims have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kirk et al., U.S. Patent 5,654,063 in view of Fritze et al., U.S. Patent 4,372,997.

Kirk et al. relates to a patch for patching a hole in a fire-resistant wall. The patch includes a standard fiberglass tape or scrim 18 with intumescent material 14 applied to it, and an adhesive 16 applied to at least one side of the coated tape. Where the patch is to be placed over a discontinuity, a base member 20, in the form of a plastic sheet or the like, may be used as an alternative to, or in addition to, the scrim in order to provide additional structure. "The base member 20 is an element separate and distinct from any structural items(s) embedded with the barrier layer 14." Col. 5, lines 46-48. If desired, an overlay 24 may be connected to the outer face of the barrier layer 14. "A first purpose of the overlay 24 may be to act as a moisture barrier." Col. 7, lines 5-6. The overlay may for example be made of plastic sheet or film, a metal foil, rubber, or a laminate of these materials.

Nothing in Kirk et al. suggests embedding a fabric, precoated with an active thermal protective material, in a thermoplastic matrix, polyolefin or otherwise.

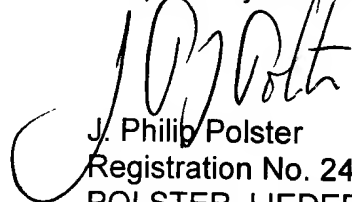
Fritze et al. is directed to a sheet material that provides a barrier to heat and flame. The sheet material includes two fibrous webs adhered together with asphalt which is filled with inorganic particles, intumescable granules, and a

catalyst for catalyzing charring of the asphalt. Films of polypropylene or the like "may be laminated to the sheet material to provide a moisture barrier." (col 4, lines 5-8) This patent likewise fails to suggest the invention set out in the present claims. Even assuming, as the Examiner suggests, that it would have been obvious to those skilled in the art "to have used Fritze's polypropylene film in the adhesive cover of Kirk et al., motivated by the desire to create an adhesive having a moisture barrier," the resulting structure would simply be the Kirk structure in which the overlay 24 is made of polypropylene. It would not have been the structure called for in the claims, nor would the method of making it be the method of making the structure as called for in the claims.

It is believed that the claims as now written clearly define an invention which is neither anticipated nor made obvious by the prior art. It is therefore requested that the case be passed to issue.

Should the Examiner have any questions or suggestions, she is urged to call applicants' undersigned attorney, J. Philip Polster, at 314-872-8118.

Respectfully submitted,



J. Philip Polster
Registration No. 24,739
POLSTER, LIEDER, WOODRUFF
& LUCCHESI, L.C.
763 South New Ballas Road
St. Louis, MO 63141
(314) 872-8118
(314) 991-2178 (fax)